

**UNITED STATES DISTRICT COURT**  
**FOR THE**  
**DISTRICT OF MINNESOTA**

Chambers of  
**PATRICK J. SCHILTZ**  
DISTRICT JUDGE

Warren E. Burger Federal Building  
316 North Robert Street  
St. Paul, Minnesota 55101  
(651) 848-1900

October 21, 2008

Re: *Bennett, et al. v. International Paper Co., et al.*  
Case No. 05-CV-0038 (PJS/RLE)

Dear Counsel:

I have reviewed the letters submitted yesterday by defendants International Paper Company, Burlington Northern and Santa Fe Railway Company, Dow Chemical Company, and Pharmacia Corporation. In those letters, the defendants describe the issues that they propose to raise in a first round of dispositive motions — a round of motions that do not in any way depend on the resolution of future *Daubert* motions.

I would appreciate receiving the input of the plaintiffs. In particular, I would like to know whether and to what extent the plaintiffs agree that the issues identified by defendants in their letters can be litigated without reference to expert testimony. I ask that the plaintiffs provide this input by Thursday, October 23.

This also confirms the understanding of Ms. Spacapan that, at the January 20, 2009 hearing, I will hear argument only on this first round of dispositive motions. If any of plaintiffs' claims remain after I rule on those motions, I will give the remaining parties 60 days or so to complete expert discovery, and then I will set a briefing schedule for *Daubert* motions. After those *Daubert* motions are decided, I will set a briefing schedule for a final round of dispositive motions.

Sincerely,

s/Patrick J. Schiltz  
Patrick J. Schiltz  
United States District Judge